

From FSM, 2720 – Special Uses Administration

2721.23 - Recreation Residences

The term "recreation residence" includes only those residences that occupy planned, approved tracts or those groups of tracts established for recreation residence use. See FSM 2347 for basic policy on recreation residence use.

2721.23a - Administration

The following direction relates specifically to issuance and administration of special use permits for recreation residence. For recreation residence permits in Alaska, follow the additional requirements in section 1303(d) of the Alaska National Interest Lands Conservation Act. Administer recreation residence permits in accordance with the direction in FSM 2721.23a through 2721.23i and within the broad governing recreation residences and permitted uses set forth in FSM 2347.1 and Title 36, Code of Federal Regulations, section 251.50 (36 CFR 251.50).

1. Issue special use permits for recreation residence in the name of one individual or to a husband and wife. Upon issuance of a new permit that continues the use or amendment, revise authorizations that are not issued to an individual or to a husband and wife, so that the responsible person is identified.
2. Issue no more than one recreation residence special use permit to a single family (husband, wife, and dependent children).
3. Do not issue special use permits for recreation residence use to entities such as commercial enterprises, nonprofit organizations, business associations, corporations, partnerships, or other similar enterprises, except that a tract association may own a caretaker residence.
4. To the extent possible, issue all recreation residence permits in a tract, or in logical groups of tracts, with the same expiration date.
5. To help defray costs and provide additional recreation opportunities, a holder may obtain permission for incidental rental for specific periods; ensure that rental use is solely for recreation purposes and does not change the character of the area or use to a commercial nature. Rental arrangements must be in writing and approved in advance by the authorized officer. The holder must remain responsible for compliance with the special use authorization.
6. Allow no more than one dwelling per lot to be built. In those cases where more than one dwelling (residence/sleeping cabin) currently occupies a single lot, allow the use to continue in accordance with the authorization. However, correct such deficiencies, if built without prior approval, upon transfer of ownership outside of the family (husband, wife, and dependent children).

7. When a recreation residence is included in the settlement of an estate, issue a new special use permit to the properly determined heir, if eligible, for the remainder of the original permit term, updated to reflect policy and procedural changes. Prior to estate settlement, issue an annual renewable permit to the executor or administrator to identify responsibility for the use pending final settlement of the estate. When a recreation residence is sold, issue a new term permit to the buyer, if eligible, for the remainder of the original permit term, updated to reflect policy and procedural changes.
8. Specify in the permit that the recreation residence must be occupied at least 15 days annually, the minimum acceptable period of occupancy.
9. Issue recreation residence term permits for a maximum of 20 years, except when the need for a shorter term has been determined by a project analysis in accordance with FSM 2721.23e and FSH 2709.14, chapter 20.
10. When a decision is made to convert the lot to an alternative use (FSM 2721.23e), take the following actions:
 - a. Notify the holder of the reasons and provide a copy of the decision documentation.
 - b. Allow at least 10 years of continued occupancy after notification.
 - c. Allow the current term permit to expire under its own terms and, if the holder is entitled to additional time to satisfy the 10-year notification period, issue a new term permit for the remaining period. Clearly specify any limited tenure by including the following statement in the permit:

"This permit will expire on (insert date) and a new permit will not be issued."
 - d. Issue term or annual permits for additional periods as needed to allow continuation of occupancy until conversion to the alternate public use is ready to begin.
11. Before the forest supervisor issues a decision to convert a lot to an alternative public use, submit the proposed decision, supporting documentation and summary of public comments, to the regional forester for review for adequacy of the documentation and analysis. If analysis and documentation are inadequate to support the proposed decision or there is some other deficiency in the proposed decision, the regional forester shall instruct the forest supervisor to remedy the deficiencies and reconsider the proposed decision prior to making the final decision.
12. As with any resource allocation made in a forest land and resource management plan, the forest supervisor may reconsider a decision to continue or convert recreation residence lots to an alternative public use at any time new or changed conditions merit such reconsideration.
13. In the event a recreation residence is destroyed or substantially damaged by a catastrophic event such as a flood, avalanche, or massive earth movement, conduct and

document an environmental analysis to determine whether improvements on the lot can be safely occupied in the future under Federal and State laws before issuing a permit to rebuild or terminating the permit. Normally, an analysis should be completed within 6 months of such an event.

Allow rebuilding if the lot can be occupied safely and the use remains consistent with the forest plan. If the need for an alternative public use at the same location has been established prior to the catastrophic event, do not allow rebuilding if the improvements are more than 50 percent destroyed. If rebuilding is not authorized, in-lieu lots may be offered as provided by FSM 2347.1, paragraph 6, and FSH 2709.14, section 23.4.

14. At the time permits are issued, advise holders that the terms of the permit require that they notify the Forest Service if they intend to sell their improvements and that they must provide a copy of the permit to a prospective purchaser before finalizing a sale. Whenever possible, the authorized officer should advise a prospective purchaser of the terms and conditions of the permit before a sale is final.

15. Do not stay a fee increase pending completion of an appeal of the fee under the administrative appeal regulations. Make any adjustments resulting from the administrative review through credit, refund, or supplemental billing.

16. During the term of a permit, terminate or revoke the use only in accordance with regulations at 36 CFR 251.60 and the terms and conditions of the permit (FSM 2347.1, para. 5). Except for revocation for noncompliance of terms of the permit, the forest supervisor shall submit proposed revocations, with supporting documentation and a summary of the public comments, to the regional forester for review prior to the forest supervisor's issuance of a decision. If analysis and documentation are inadequate to support the proposed decision or there is some other deficiency in the proposed decision, the regional forester shall instruct the forest supervisor to remedy the deficiencies and reconsider the proposed revocation prior to making the final decision.

2721.23b - Applications

Insofar as practicable, notify a new or prospective owner that they must make application for the authorization to use existing improvements in accordance with 36 CFR 251.54.

2721.23c - Permit Preparation

1. Use the Term Special Use Permit for Recreation Residence, form FS-2700-5a, to authorize recreation residences, except as specified in paragraph 2 of this section.
2. Use the Special Use Permit, form FS-2700-4, when:
 - a. Conversion of the lot to an alternative public use is authorized, the conversion will be delayed, and a minimum term of continued use cannot be predicted.
 - b. Continuance of the recreation residence use is conditioned on the owner's complying with specific Forest Service requirements before a term permit is issued.

- c. The improvements are managed by a third party pending settlement of an estate, bankruptcy proceedings, or other legal action.
 - d. Year-long occupancy is authorized by the forest supervisor, at which time the improvement ceases to be a recreation residence.
3. In either permit, identify all authorized improvements associated with recreation residence use. Do not authorize use of more than the statutory maximum of 5 acres under a term permit. Authorize community or association-owned improvements, such as water systems, by a separate permit (form FS-2700-4).